

AMENDED IN ASSEMBLY MAY 5, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 813**

---

### Introduced by Assembly Member Hall

February 26, 2009

---

An act to amend Section 19827 of the Business and Professions Code, relating to gambling.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 813, as amended, Hall. Gambling Control Act: administration.

Existing law, the Gambling Control Act, provides for the licensure and regulation of various legalized gambling activities and establishments by the California Gambling Control Commission and the investigation and discipline of those activities and establishments by the Division of Gambling Control within the Department of Justice, as specified. Existing law permits the department to seize, remove, impound, photocopy, and audit any equipment, supplies, documents, papers, books, and records on the premises of a licensed gambling establishment for examination and inspection. ~~A willful violation of any provision of the Gambling Control Act is a crime.~~

~~This bill would require that the examination and inspection of the equipment, supplies, documents, papers, books, and records of a gambling establishment take place during standard business hours. The bill would require a gambling establishment to submit to the department, on January 1 and July 1 of each year, a schedule of its standard business hours, as specified. Because a willful violation of the Gambling Control Act is a crime, this bill would create a new crime and would thereby~~

~~impose a state-mandated local program~~ *Department of Justice examine documents requested in a routine audit during normal business hours, as specified.*

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~*no*.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 19827 of the Business and Professions
- 2 Code is amended to read:
- 3 19827. (a) The department has all powers necessary and proper
- 4 to enable it to carry out fully and effectually the duties and
- 5 responsibilities of the department specified in this chapter. The
- 6 investigatory powers of the department include, but are not limited
- 7 to, all of the following:
- 8 (1) Upon approval of the chief, and without notice or warrant,
- 9 the department may take any of the following actions:
- 10 (A) Visit, investigate, and place expert accountants, technicians,
- 11 and any other person, as it may deem necessary, in all areas of the
- 12 premises wherein controlled gambling is conducted for the purpose
- 13 of determining compliance with the rules and regulations adopted
- 14 pursuant to this chapter.
- 15 (B) Visit, inspect, and examine all premises where gambling
- 16 equipment is manufactured, sold, or distributed.
- 17 (C) Inspect all equipment and supplies in any gambling
- 18 establishment or in any premises where gambling equipment is
- 19 manufactured, sold, or distributed.
- 20 (D) Summarily seize, remove, and impound any equipment,
- 21 supplies, documents, or records from any licensed premises for
- 22 the purpose of examination and inspection. However, upon
- 23 reasonable demand by the licensee or the licensee's authorized
- 24 representative, a copy of all documents and records seized shall
- 25 be made and left on the premises.
- 26 (E) Demand access to, and inspect, examine, photocopy, and
- 27 audit all papers, books, and records of an owner licensee on the

1 gambling premises in the presence of the licensee or his or her  
2 agent.

3 (2) *The department shall examine documents requested in a*  
4 *routine audit at a gambling establishment between the normal*  
5 *business hours of 8 a.m. to 6 p.m. within a five-day workweek*  
6 *schedule. However, this requirement shall not be construed to take*  
7 *away from the department's investigatory authority and duties.*

8 ~~(2) (A) The summary examination and inspection of the~~  
9 ~~equipment, supplies, documents, papers, books, and records~~  
10 ~~pursuant to subparagraphs (D) and (E) of paragraph (1), shall be~~  
11 ~~conducted during standard business hours.~~

12 ~~(B) A gambling establishment shall submit to the department,~~  
13 ~~on January 1 and July 1 of each year, a schedule of its standard~~  
14 ~~business hours for purposes of subparagraph (A). With respect to~~  
15 ~~weeks that do not contain a state or national holiday on which the~~  
16 ~~gambling establishment will be closed, the schedule shall provide~~  
17 ~~for standard business hours of not less than eight hours per day~~  
18 ~~and five days per week. With respect to weeks that contain a state~~  
19 ~~or national holiday on which the gambling establishment will be~~  
20 ~~closed, the schedule shall provide for standard business hours of~~  
21 ~~at least 30 hours per week.~~

22 (3) Except as provided in paragraph (1), upon obtaining an  
23 inspection warrant pursuant to Section 1822.60 of the Code of  
24 Civil Procedure, the department may inspect and seize for  
25 inspection, examination, or photocopying any property possessed,  
26 controlled, bailed, or otherwise held by any applicant, licensee, or  
27 any intermediary company, or holding company.

28 (4) The department may investigate, for purposes of prosecution,  
29 any suspected criminal violation of this chapter. However, nothing  
30 in this paragraph limits the powers conferred by any other law on  
31 agents of the department who are peace officers.

32 (5) The department may do both of the following:

33 (A) Issue subpoenas to require the attendance and testimony of  
34 witnesses and the production of books, records, documents, and  
35 physical materials.

36 (B) Administer oaths, examine witnesses under oath, take  
37 evidence, and take depositions and affidavits or declarations.  
38 Notwithstanding Section 11189 of the Government Code, the  
39 department, without leave of court, may take the deposition of any  
40 applicant or any licensee. Sections 11185 and 11191 of the

1 Government Code do not apply to a witness who is an applicant  
2 or a licensee.

3 (b) (1) Subdivision (a) shall not be construed to limit  
4 warrantless inspections except as required by the California  
5 Constitution or the United States Constitution.

6 (2) Subdivision (a) shall not be construed to prevent entries and  
7 administrative inspections, including seizures of property, without  
8 a warrant in the following circumstances:

9 (A) With the consent of the owner, operator, or agent in charge  
10 of the premises.

11 (B) In situations presenting imminent danger to health and  
12 safety.

13 (C) In situations involving inspection of conveyances where  
14 there is reasonable cause to believe that the mobility of the  
15 conveyance makes it impractical to obtain a warrant, or in any  
16 other exceptional or emergency circumstance where time or  
17 opportunity to apply for a warrant is lacking.

18 (D) In accordance with this chapter.

19 (E) In all other situations where a warrant is not constitutionally  
20 required.

21 ~~SEC. 2. No reimbursement is required by this act pursuant to~~  
22 ~~Section 6 of Article XIII B of the California Constitution because~~  
23 ~~the only costs that may be incurred by a local agency or school~~  
24 ~~district will be incurred because this act creates a new crime or~~  
25 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
26 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
27 ~~the Government Code, or changes the definition of a crime within~~  
28 ~~the meaning of Section 6 of Article XIII B of the California~~  
29 ~~Constitution.~~